

Genentech, Inc.

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DATE: March 19, 2004

Please deliver the following Communication, Notice Declaring Interference for Interference 105,116 (12 pages) and Notice Declaring Interference for Interference 105,048 (31 pages) to:

NAME: Examiner Christopher Yaen - Group Art 1642
U.S. Patent and Trademark office
Washington, DC 20231

Fax No.: (703) 305-3014

FROM: Wendy M. Lee
Registration No.: 40,378

RE: U.S. Serial No.: 09/705,579
Our Docket No.: P1053R1D1

Number of Pages including this cover sheet - ~~46~~ 34

Certificate of Facsimile Transmission Under 37 CFR § 1.8

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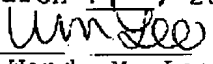
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Patent Docket P1053R1D1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

<p>In re Application of Brian M. Fendly Serial No.: 09/705,579 Filed: November 2, 2000 For: ANTI-ErbB2 ANTIBODIES</p>	<p>Group Art Unit: 1642 Examiner: Christopher Yaen Confirmation No: 5667 CUSTOMER NO: 09157</p> <hr/> <p>Certificate of Facsimile Transmission Under 37 CFR § 1.6 In accordance with CFR § 1.6(d), this correspondence addressed to Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 is being transmitted to facsimile No. (703) 305-3014</p> <p>March 19, 2004  Wendy M. Lee</p>
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COMMUNICATION

Mail Stop AF
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Sir:

STATEMENT CONCERNING INTERFERENCE PROCEEDINGS

Applicants attach copies of:

Notice Declaring Interference with respect to Patent Interference No. 105,048;
 Notice Declaring Interference with respect to Patent Interference No. 105,116.

It is evident that the claims of the present application concerning treating a tumor or cancer characterized by overexpression or activation of ErbB2 by administering **both an anti-ErbB2 antibody and Vinorelbine** do not correspond to the count of the '048 interference (claim 41 of Hudziak Appln No. 10/174,806; "A monoclonal antibody that binds to HER-2 antigen"). Nor do the claims of the present application correspond to the count of the '116 interference (claim 3 of Hudziak patent No. 6,399,063; "A method of inhibiting the growth of tumor cells that overexpress HER2 receptor comprising administering to a [breast cancer] patient an antibody comprising an antigen binding region which specifically binds to an extracellular domain of the HER2 receptor in an amount effective to inhibit growth of the tumor cells in the patient, wherein the antibody is not conjugated to a cytotoxic moiety"). Applicants have provided evidence (see amendment dated March 19, 2003, page 6, 4th paragraph) demonstrating that the presently claimed combination is highly active and well tolerated. Applicants submit that neither the count of the '048 interference nor the count of the '116 interference suggest the presently claimed combination which is highly active and well tolerated in

human patients.

PREVIOUSLY FILED IDSs

Applicants point out that they have not received from the PTO initialed copies of the following 1449 forms:

- IDS filed 4/30/2001 citing ref nos. 191-192
- IDS filed 6/3/2003 citing ref nos. 193-248

Applicants respectfully request that the initialed 1449 forms be returned to them indicating the Examiner's consideration of the art cited therein. In the event that the references are lost, Applicants will be happy to provide replacement copies upon request.

Applicants believe that this application is in condition for allowance, and look forward to early notification to that effect.

Respectfully submitted,
GENENTECH, INC.

Date: March 19, 2004

By: W. M. Lee
Wendy M. Lee
Reg. No. 40,378
Telephone: (650) 225-225-1994

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 1

Filed by: Michael P. Tierney
Administrative Patent Judge
Box Interference
Washington, D.C. 20231
Tel: 703-308-9797
Fax: 703-305-0942

Filed
October 24, 2002

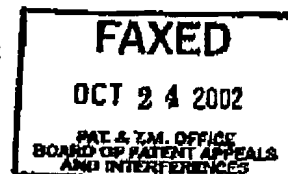
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

GENENTECH
Junior Party¹

v.

CHIRON
Junior Party



Patent Interference No. 105,048 (MPT)

NOTICE REDECLARING INTERFERENCES 105,021 & 105,022

On August 12, 2002, an interference was declared between Greene '899 and Hudziak, U.S. Patent No. 6,165,464 (Hudziak '464). (Interference No. 105,021). Similarly, an interference was declared on August 12, 2002 between Greene, U.S. Application No. 09/158,899 (Greene '899) and Ring, U.S. Patent No. 6,054,561 (Ring '561). (Interference No. 105,022).

Chiron is the real party in interest in Ring '561. (Interference No. 105,022, Paper No. 10). While the assignee of Greene '899 is the Trustees of the University of Pennsylvania, Genentech is an exclusive licensee of Greene '899 and is said to be the real party in interest.

¹Due to the dispute over the scope of the count and the priority benefit dates, both parties have been accorded junior party status. Senior party status shall be awarded prior to entering the priority phase of the interference.

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(Interference No. 105,021, Paper No. 4). Furthermore, Genentech is the real party in interest in Hudziak '464. (Interference No. 105,021, Paper No. 8).

As discussed below, concurrent with this redeclaration, the 105,021 and 105,022 interferences are terminated without prejudice and merged into the new (redeclared) Interference No. 105,048.

August 29, 2002 Conference Call

During a conference call on August 29, 2002, the APJ requested clarification of the extent of Genentech's authority to control the prosecution of the Greene '899 application. Furthermore, the APJ inquired whether or not counsel for Genentech owed a fiduciary duty to the Trustees of the University of Pennsylvania. Counsel for Genentech stated that no fiduciary duty was owed to the Trustees of University of Pennsylvania and that Genentech controls the prosecution of the Greene '899 application.

In light of Genentech's control over both Greene '899 and Hudziak '464, the APJ expressed an intent to issue an Order to Show Cause as to why the 105,021 interference should be continued. See, 37 C.F.R. §1.602(a). Counsel for Genentech cited the decision in Barton v. Adang, 162 F.3d 1140, 49 USPQ2d 1128 (Fed. Cir. 1998) as precedent for continuing the 105,021 interference. The APJ noted, however, that the decision in Barton involved a "three-way" interference as opposed to the two "two-way" interferences that had been declared.

Based upon the discussion, no Order to Show Cause was issued at that time. Rather, the APJ requested that the parties file a chart depicting the various patent family trees for the applications and patents involved in the 105,021 and 105,022 interferences. The APJ also requested that a copy of the pending and issued claims for the family tree be provided to the Board.

October 4, 2002 Conference Call

Having received and reviewed the parties' patent family trees and claims, the APJ conducted another conference call with the parties. At the conference call, counsel for

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Genentech expressed concern regarding the scope of the count in the 105,021 interference. Specifically, Genentech noted that Count 1 in the 105,021 interference is Greene claim 23. Further, Genentech noted that Count 1 in the 105,022 is based in part on Greene claim 23. Genentech's counsel then indicated that Genentech and Chiron were in dispute as to the scope of the term "binds," which appears in Greene claim 23. Given the dispute as to the scope of the counts, the APJ initially suggested that a claim/count construction hearing be held prior to issuing an Order to Show Cause in the 105,021 interference. Chiron's counsel, however, noted that such a briefing would not necessarily be binding upon Chiron as Chiron was not a party to the 105,021 interference. At that point, the APJ suggested that: (1) a briefing schedule of Genentech/Chiron/Genentech be held; or (2) the interferences be redeclared as a "merged" interference. The APJ invited the parties to file a brief commenting upon the structure of the interferences.

Additionally, counsel for Chiron alleged that there was no interference-in-fact between Ring's applications and patents and the Greene '899 application. Counsel for Genentech disagreed and offered to add a new claim to the Greene application that more particularly define Greene's claimed p185 as human p185. The APJ invited Genentech to identify the basis for such a claim as part of its brief on the structure of the interference.

Decision on Structure of Interferences 105,021 and 105,022

Both parties' briefs regarding the structure of the interference have requested that there be a single interference between the Greene, Hudziak and Ring applications and patents. The APJ concurs. A single interference, Interference No. 105,048 is declared, and the previous interferences, Interference Nos. 105,021 and 105,022, are terminated without prejudice.

October 18, 2002 Conference Call

A conference call was held on October 18, 2002 involving:

1. Michael P. Tierney, Administrative Patent Judge
2. Steven B. Kelber, counsel for Genentech.

3. Thomas E. Ciotti and Matthew I. Kreeger, counsel for Chiron.

At the outset of the conference call, the APJ noted that the parties' briefs requested an expedited schedule for the preliminary motions phase of the interference. Chiron's brief requested an expedited briefing schedule for motions limited to: (1) motions regarding interpretation of count limitations; (2) motions for no interference-in-fact; (3) motions regarding the unparentability of the parties' claims under 35 U.S.C. §102. In contrast, Genentech's brief requested an expedited schedule for entering a new human p185 claim for the Greene application and for redesignating claims that, in the opinion of the parties, do not correspond to the Count.

Based upon the information provided during the conference call, the APJ declined to enter into an expedited schedule for the preliminary motions period. Specifically, at this time, the parties were unable to identify a limited set of issues that both parties agree would be dispositive of the issues raised in the preliminary motion phase. The APJ, however, is still willing to consider expediting the resolution of the preliminary motions phase. As such, along with the lists of intended preliminary motions (Standing Order, §17), the parties are invited to submit a one page outline on whether or not an expedited decision on the scope of the Count would be beneficial.

Counsel for Genentech has requested permission to file a miscellaneous motion seeking the disqualification of Chiron's counsel from the interference. Generally, under the auspices of a district court protective order, Chiron's present counsel was privy to confidential Genentech information. Genentech alleges that Chiron's knowledge of Genentech's confidential information is likely to be detrimental to Genentech's interests in the interference and that disqualification is necessary to prevent undue prejudice. While not entirely convinced as to the merits and scope of the disqualification request, Genentech will be afforded an opportunity to file the motion and any supporting evidence by no later than November 19, 2002. Prior to filing the motion, however, Genentech shall contact Chiron's counsel and attempt to resolve the matter.

The redeclaration of the 105,021 & 105,022 interferences is set forth below.

Part A. Redeclaration of interference

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application(s), patent (if any), reissue application (if any), count(s) and

Interference No. 105,048

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claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this NOTICE REDECLARING INTERFERENCE.

Part B. Judge designated to handle the interference

Administrative Patent Judge Michael P. Tierney has been designated to handle the interference. 37 CFR § 1.610(a).

Part C. Standing order

A Trial Section STANDING ORDER accompanies this NOTICE REDECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

Part D. Conference call to set dates

A telephone conference call to set dates for taking action in the interference is scheduled for 2:00 p.m. (EST), November 21, 2002 (the call will be initiated from the PTO).

No later than two business days prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See § 17 of the STANDING ORDER.

A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE DECLARING INTERFERENCE.

Counsel are encouraged to discuss the order prior to the conference call with the view to coming to some mutual agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine (9) months. Counsel should be prepared to justify any request for a shorter or longer period.

Attached to this Notice are copies of the patent family trees for Chiron's Ring and Genentech's Greene and Hudziak applications and patents. The following tables correlates the involved applications and patents with the parties respective patent family trees.²

²During the October 4, 2002 conference call the APJ may have indicated that Chiron's Ring, U.S. 5,629,197 ("Ring '197") patent would be added to a redeclared interference. None of the claims of the Ring '197 patent appear to correspond to Count 1 of the redeclared interference. Accordingly, the Ring '197 patent has not been added to the interference.

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CHIRON AND GENENTECH PATENT FAMILY TREES			
REAL PARTY	TAB	U.S. PATENT OR APPLICATION NO.	FILING DATE
CHIRON (Ring/Frankel)	2	Patent No. 4,753,894	January 11, 1985
	4	Patent No. 5,169,774	May 6, 1988
	6	Application No. 08/486,817	June 7, 1995
	7	Patent No. 6,054,561	June 7, 1995
	8	Application No. 08/477,512	June 7, 1995
GENENTECH (Greene)	5	Application No. 09/158,899	September 23, 1998
GENENTECH (Hudziak)	3	Patent No. 5,720,937	November 28, 1994
	5	Patent No. 5,725,856	May 23, 1995
	6	Patent No. 5,720,954	May 23, 1995
	7	Patent No. 5,677,171	August 5, 1994
	8	Patent No. 5,770,195	May 23, 1995
	9	Patent No. 5,772,997	May 23, 1995
	10	Application No. 10/174,806	June 20, 2002
	11	Application No. 09/343,310	June 30, 1999
	12	Patent No. 6,165,464	March 17, 1998
	13	Patent No. 6,399,063	September 14, 1998
	14	Patent No. 6,387,371	June 25, 1999

Part E. The parties involved in this interference are:

Junior Party: Genentech (Greene)

Named inventors: Mark I. Greene, Penn Valley, PA
Jeffrey A. Drebin, Baltimore, MD

Application: (TAB GG5) U.S. Application No. 09/158,899, filed September 23, 1998

Title: Treatment of Tumors with Monoclonal Antibodies Against
Oncogene Antigens.

Assignee: Trustees of the University of Pennsylvania

Accorded Benefit: None

Attorneys: See last page

Address: See last page

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Junior Party: Genentech (Hudziak)

Named inventors: Robert M. Hudziak, Blodgett, OR
Axel Ullrich, Portola Valley, CA
Brian M. Fendly, Half Moon Bay, CA

Patent: (TAB GH3) U.S. Patent No. 5,720,937, issued February 24, 1998, based upon
U.S. Application No. 08/345,091, filed November 28, 1994

Title: In Vivo Tumor Detection

Assignee: Genentech, Inc.

Accorded Benefit: None

Attorneys: See last page

Address: See last page

Junior Party: Genentech (Hudziak)

Named inventors:

Robert M. Hudziak, Blodgett, OR
Axel Ulrich, Portola Valley, CA
Brian M. Fendly, Half Moon Bay, CA

Patent:

(TAB GH5)

U.S. Patent No. 5,725,856, issued March 10, 1998, based upon
U.S. Application No. 08/447,489, filed May 23, 1995

Title:

Monoclonal Antibodies Directed to the HER2 Receptor

Assignee:

Genentech, Inc.

Accorded Benefit:

None

Attorneys:

See last page

Address:

See last page

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Junior Party: Genentech (Hudziak)

Named inventors: Robert M. Hudziak, Corvallis, OR
H. Michael Shepard, Santa Fe, CA
Axel Ulrich, Portola Valley, CA
Brian M. Fendly, Half Moon Bay, CA

Patent: (TAB GH6) U.S. Patent No. 5,720,954, issued February 24, 1998, based upon
U.S. Application No. 08/449,383, filed May 23, 1995

Title: Monoclonal Antibodies Directed to the HER2 Receptor

Assignee: Genentech, Inc.

Accorded Benefit: None

Attorneys: See last page

Address: See last page

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Junior Party: Genentech (Hudziak)

Named inventors: Robert M. Hudziak, Corvallis, OR
H. Michael Shepard, Rancho Santa Fe, CA
Axel Ullrich, Portola Valley, CA
Brian M. Fendly, Half Moon Bay, CA

Patent: (TAB GH7) U.S. Patent No. 5,677,171, issued October 14, 1997, based upon
U.S. Application No. 08/286,303, filed August 5, 1994

Title: Monoclonal Antibodies Directed to the HER2 Receptor

Assignee: Genentech, Inc.

Accorded Benefit: None

Attorneys: See last page

Address: See last page

Junior Party: Genentech (Hudziak)

Named inventors: Robert M. Hudziak, Corvallis, OR
H. Michael Shepard, Rancho Santa Fe, CA
Axel Ullrich, Portola Valley, CA
Brian M. Fendly, Half Moon Bay, CA

Patent: (TAB GH8) U.S. Patent No. 5,770,195, issued June 23, 1998, based upon U.S.
Application No. 08/447,517, filed May 23, 1995

Title: Monoclonal Antibodies Directed to the HER2 Receptor

Assignee: Genentech, Inc.

Accorded Benefit: None

Attorneys: See last page

Address: See last page

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Page No. 13

Junior Party: Genentech (Hudziak)

Named inventors: Robert M. Hudziak, Corvallis, OR
H. Michael Shepard, La Costa, CA
Axel Ulrich, Portola Valley, CA
Brian M. Fendly, Half Moon Bay, CA

Patent: (TAB GH9) U.S. Patent No. 5,772,997, issued June 30, 1998, based upon U.S.
Application No. 08/447,478, filed May 23, 1995

Title: Monoclonal Antibodies Directed to the HER2 Receptor

Assignee: Genentech, Inc.

Accorded Benefit: None

Attorneys: See last page

Address: See last page

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Junior Party: Genentech (Hudziak)

Named inventors:

Robert M. Hudziak, Corvallis, OR
Michael Shepard, Rancho Santa Fe, CA
Axel Ulrich, Portola Valley, CA
Brian M. Fendly, Half Moon Bay, CA

Application: (TAB GH10) U.S. Application No. 10/174,806, filed June 20, 2002

Title:

Method of the Treating Tumor Cells by Inhibiting Growth Factor
Receptor Function

Assignee:

Genentech, Inc.

Accorded Benefit:

None

Attorneys:

See last page

Address:

See last page

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Junior Party: Genentech (Hudziak)

Named inventors: Robert M. Hudziak, Corvallis, OR
Michael Shepard, Rancho Santa Fe, CA
Axel Ullrich, Portola Valley, CA
Brian M. Fendly, Half Moon Bay, CA

Application: (TAB GH11) U.S. Application No. 09/343,310, filed June 30, 1999

Title: Antibodies Directed to the HER2 Receptor

Assignee: Genentech, Inc.

Accorded Benefit: None

Attorneys: See last page

Address: See last page

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Junior Party: Genentech (Hudziak)

Named inventors: Robert M. Hudziak, Corvallis, OR
H. Michael Shepard, Rancho Santa Fe, CA
Axel Ullrich, Portola Valley, CA
Brian M. Fendly, Half Moon Bay, CA

Patent: (TAB GH12) U.S. Patent No. 6,165,464, issued December 26, 2000, based upon
U.S. Application No. 09/044,197, filed March 17, 1998

Title: Monoclonal Antibodies Directed to the HER2 Receptor

Assignee: Genentech, Inc.

Accorded Benefit: None

Attorneys: See last page

Address: See last page

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Junior Party: Genentech (Hudziak)

Named inventors: Robert M. Hudziak, Corvallis, OR
H. Michael Shepard, Rancho Santa Fe, CA
Axel Ullrich, Portola Valley, CA
Brian M. Fendly, Half Moon Bay, CA

Patent: (TAB GH13) U.S. Patent No. 6,399,063, issued June 4, 2002, based upon U.S.
Application No. 09/152,654, filed September 14, 1998

Title: Monoclonal Antibodies Directed to the HER2 Receptor

Assignee: Genentech, Inc.

Accorded Benefit: None

Attorneys: See last page

Address: See last page

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Junior Party: Genentech (Hudziak)

Named inventors: Robert M. Hudziak, Corvallis, OR
Michael Shepard, Rancho Santa Fe, CA
Axel Ullrich, Portola Valley, CA

Patent: (TAB GH14) U.S. Patent No. 6,387,371, issued May 14, 2002, based upon U.S.
Application No. 09/344,073, filed June 25, 1999

Title: Monoclonal Antibodies Directed to the HER2 Receptor

Assignee: Genentech, Inc.

Accorded Benefit: None

Attorneys: See last page

Address: See last page

Named inventors: Arthur E. Frankel, Palo Alto, CA
David B. Ring, Redwood City, CA
Michael J. Bjorn, Hercules, CA

Patent: (TAB CR2) U.S. Patent No. 4,753,894, issued June 28, 1988, based upon U.S.
Application No. 06/690,750, filed January 11, 1985

Title: Monoclonal Anti-Human Breast Cancer Antibodies

Assignee: Chiron Corporation

Accorded Benefit: None

Attorneys: See last page

Address: See last page

Interference No. 105,048
Page No. 20

Junior Party: Chiron (Ring)

Named inventors: Arthur E. Frankel, Durham, NC
David B. Ring, Redwood City, CA
Walter Laird, Pinole, CA

Patent: (TAB CR4) U.S. Patent No. 5,169,774, issued December 8, 1992, based upon
U.S. Application No. 07/190,778, filed May 6, 1988

Title: Monoclonal Anti-Human Breast Cancer Antibodies

Assignee: Chiron Corporation

Accorded Benefit: None

Attorneys: See last page

Address: See last page

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Junior Party: Chiron (Ring)

Named inventors: David B. Ring, Palo Alto, CA
Application: (TAB CR6) U.S. Application No. 08/486,817, filed June 7, 1995
Title: Use Of Antibody Molecules Specific For Cancer Antigens
Assignee: Chiron Corporation
Accorded Benefit: None
Attorneys: See last page
Address: See last page

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Junior Party: Chiron (Ring)

Named inventors: David B. Ring, Palo Alto, CA
Arthur E. Frankel, Winston-Salem, NC

Patent: (TAB CR7) U.S. Patent No. 6,054,561, issued April 25, 2000, based upon U.S.
Application No. 08/483,749, filed June 7, 1995

Title: Antigen-Binding Sites of Antibody Molecules Specific for Cancer
Antigens

Assignee: Chiron Corporation

Accorded Benefit: None

Attorneys: See last page

Address: See last page

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Junior Party: Chiron (Ring)

Named inventors: David B. Ring, Palo Alto, CA
Application: (TAB CR8) U.S. Application No. 08/477,512, June 7, 1995
Title: Antigen-Binding Sites Of Antibody Molecules Specific For Cancer Antigens
Assignee: Chiron Corporation
Accorded Benefit: None
Attorneys: See last page
Address: See last page

Part F. Count and claims of the parties

Count 1

A monoclonal antibody according to claim 41 of Hudziak et al., U.S. Application No. 10/174,806.

The claims of the parties are:

Greene U.S. Application 09/158,899 (TAB GG5)	Claims: 3-5 and 23-29
Hudziak U. S. Patent No. 5,720,937 (TAB GH3)	Claims: 1-10
Hudziak U. S. Patent No. 5,725,856 (TAB GH5)	Claims: 1-26
Hudziak U. S. Patent No. 5,720,954 (TAB GH6)	Claims: 1-35
Hudziak U. S. Patent No. 5,677,171 (TAB GH7)	Claims: 1-39
Hudziak U. S. Patent No. 5,770,195 (TAB GH8)	Claims: 1-36
Hudziak U. S. Patent No. 5,772,997 (TAB GH9)	Claims: 1-13
Hudziak U. S. Application No. 10/174,806 (TAB GH10)	Claims: 1, 40 and 41
Hudziak U. S. Application No. 09/343,310 (TAB GH11)	Claims: 40-48
Hudziak U. S. Patent No. 6,165,464 (TAB GH12)	Claims: 1-11
Hudziak U.S. Patent No. 6,399,063 (TAB GH13)	Claims: 1-18
Hudziak U. S. Patent No. 6,387,371 (TAB GH14)	Claims: 1-14
Frankel, U.S. Patent No. 4,753,894 (TAB CR2)	Claims: 1-29
Frankel, U.S. Patent No. 5,169,774 (TAB CR4)	Claims: 1-4
Ring, U.S. Application No. 08/486,817 (TAB CR6)	Claims: 88-115
Ring, U.S. Patent No. 6,054,561 (TAB CR7)	Claims: 1-31
Ring, U.S. Application No. 08/477,512 (TAB CR8)	Claims: 38-46

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The claims of the parties which correspond to Count 1 are:

Greene U.S. Application 09/158,899 (TAB GG5)

Claims: 3-5, 23, 26-27 and 29

Hudziak U. S. Patent No. 5,720,937 (TAB GH3)

Claims: 1-7 and 9

Hudziak U. S. Patent No. 5,725,856 (TAB GH5)

Claims: 1-12 and 14-26

Hudziak U. S. Patent No. 5,720,954 (TAB GH6)

Claims: 1-21 and 23-35

Hudziak U. S. Patent No. 5,677,171 (TAB GH7)

Claims: 1-6, 8-22, 24, 26 and 28-39

Hudziak U. S. Patent No. 5,770,195 (TAB GH8)

Claims: 1-36

Hudziak U. S. Patent No. 5,772,997 (TAB GH9)

Claims: 1-13

Hudziak U. S. Application No. 10/174,806 (TAB GH10)

Claims: 1, 40 and 41

Hudziak U. S. Application No. 09/343,310 (TAB GH11)

Claims: 40-48

Hudziak U. S. Patent No. 6,165,464 (TAB GH12)

Claims: 1-11

Hudziak U.S. Patent No. 6,399,063 (TAB GH13)

Claims: 1-15 and 17-18

Hudziak U. S. Patent No. 6,387,371 (TAB GH14)

Claims: 1-14

Frankel, U.S. Patent No. 4,753,894 (TAB CR2)

Claims: 1-15 and 20-29

Frankel, U.S. Patent No. 5,169,774 (TAB CR4)

Claims: 1

Ring, U.S. Application No. 08/486,817 (TAB CR6)

Claims: 88-115

Ring, U.S. Patent No. 6,054,561 (TAB CR7)

Claims: 1-31

Ring, U.S. Application No. 08/477,512 (TAB CR8)

Claims: 38-46

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The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Greene U.S. Application 09/158,899 (TAB GG5)	Claims: 24-25 and 28-29
Hudziak U. S. Patent No. 5,720,937 (TAB GH3)	Claims: 8 and 10
Hudziak U. S. Patent No. 5,725,856 (TAB GH5)	Claims: 13
Hudziak U. S. Patent No. 5,720,954 (TAB GH6)	Claims: 22
Hudziak U. S. Patent No. 5,677,171 (TAB GH7)	Claims: 7, 23, 25 and 27
Hudziak U. S. Patent No. 5,770,195 (TAB GH8)	Claims: None
Hudziak U. S. Patent No. 5,772,997 (TAB GH9)	Claims: None
Hudziak U. S. Application No. 10/174,806 (TAB GH10)	Claims: None
Hudziak U. S. Application No. 09/343,310 (TAB GH11)	Claims: None
Hudziak U. S. Patent No. 6,165,464 (TAB GH12)	Claims: None
Hudziak U.S. Patent No. 6,399,063 (TAB GH13)	Claims: 16
Hudziak U. S. Patent No. 6,387,371 (TAB GH14)	Claims: None
Frankel, U.S. Patent No. 4,753,894 (TAB CR2)	Claims: 16-19
Frankel, U.S. Patent No. 5,169,774 (TAB CR4)	Claims: 2-4
Ring, U.S. Application No. 08/486,817 (TAB CR6)	Claims: None
Ring, U.S. Patent No. 6,054,561 (TAB CR7)	Claims: None
Ring, U.S. Application No. 08/477,512 (TAB CR8)	Claims: None

Interference No. 105,048

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Part G. Heading to be used on papers

The following heading shall be used on papers filed in the interference. See § 18 of the
STANDING ORDER.

Filed on behalf of [name of party]
By: Name of lead counsel, Esq.
Name of backup counsel, Esq.
Street address
City, State, and Zip-Code
Tel:
Fax:

Paper _____³

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

GENENTECH
Junior Party

v.

CHIRON
Junior Party

Patent Interference No. 105,048 (MPT)

TITLE OF PAPER

³ Leave a blank line because the board assigns the paper number.

Part H. Summary of dates for taking action

Times for taking action are set out in the following sections of the STANDING ORDER:

- i. § 7: date for identifying lead and backup counsel.
- ii. § 8: date for identifying any real party in interest.
- iii. § 9: date for requesting copies of involved and benefit applications and patents.
- iv. § 17: date for filing list of proposed preliminary motions.
- v. § 19: date for accomplishing certain discovery.
- vi. § 20: date for filing clean copy of claims.
- vii. § 21: date for filing clean copy of claims in cases with drawings and/or claims containing a means plus function limitation.
- viii. § 23: dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
- ix. § 33: date for objecting to admissibility of evidence.
- x. § 34: date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
- xi. § 35: dates when cross-examination can take place.
- xii. § 45: dates for taking action with respect to settlement discussions

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Part I. Order form for requesting file copies

FILE COPY REQUEST

Interference 105,048

A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a circle by hand around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPTO Deposit Account No. _____
2. Complete address, including street, city, state, zip code and telephone number (do not list a Post Office box inasmuch as file copies are sent via commercial overnight courier).

Telephone, including area code: _____

Part J. Signature of administrative patent judge


Michael P. Tierney
Administrative Patent Judge

Date: October 24, 2002
Arlington, VA

Enc:⁴ (Via Federal Express Only)

Copy of STANDING ORDER

Copy of "Hudziak" Patent Family Tree
Copy of "Greene" Patent Family Tree
Copy of "Ring" Patent Family Tree

*Copies of Genentech's and Chiron's involved claims may be found in Paper Nos. 17 and 18 of Interference No. 105,022.

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Page No. 31

202-861-3900
Fax: 202-223-2085
20036-2430

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